

SENATE BILL 811

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P1

2004 Regular Session
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By: **Senator Klausmeier**

Introduced and read first time: February 18, 2004

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Natural Resources Police - Transfer to the Department of State Police**

3 FOR the purpose of transferring the Natural Resources Police Force from the
4 Department of Natural Resources into the Department of State Police; creating
5 the Office of Natural Resources Police in the Department of State Police as the
6 successor to the Natural Resources Police Force; transferring the employees of
7 the Natural Resources Police Force to the Office of Natural Resources Police;
8 providing that employees of the Department of Natural Resources who are
9 transferred to the Department of State Police by this Act shall be transferred
10 without diminution of their rights, benefits, or employment and retirement
11 status; transferring certain rights, powers, duties, obligations, functions,
12 appropriations, and property to the Department of State Police; making
13 conforming cross-reference changes; requiring the publishers of the Annotated
14 Code of Maryland, in consultation with the Department of Legislative Services,
15 to revise the Code to conform it to changes made by this Act; defining certain
16 terms; making stylistic changes; and generally relating to the transfer of the
17 Natural Resources Police Force to the Department of State Police.

18 BY transferring
19 Article - Natural Resources
20 Section 1-201 through 1-210, respectively, and the subtitle "Subtitle 2. Natural
21 Resources Police Force"
22 Annotated Code of Maryland
23 (2000 Replacement Volume and 2003 Supplement)
24 to be
25 Article - Public Safety
26 Section 2-802 through 2-811, respectively, and the subtitle "Subtitle 8. Natural
27 Resources Police Force"
28 Annotated Code of Maryland
29 (2003 Volume)

30 BY repealing and reenacting, without amendments,
31 Article - Public Safety

1 Section 2-101(i) and 2-401 through 2-403
2 Annotated Code of Maryland
3 (2003 Volume)

4 BY repealing and reenacting, with amendments,
5 Article - Public Safety
6 Section 2-204(b), 2-301(a), and 2-412(c)
7 Annotated Code of Maryland
8 (2003 Volume)

9 BY adding to
10 Article - Public Safety
11 Section 2-801
12 Annotated Code of Maryland
13 (2003 Volume)

14 BY repealing and reenacting, with amendments,
15 Article - Public Safety
16 Section 2-802 through 2-807 and 2-810 and 2-811 to be under the amended
17 subtitle "Subtitle 8. Office of Natural Resources Police"
18 Annotated Code of Maryland
19 (2003 Volume)
20 (As enacted by Section 1 of this Act)

21 BY repealing and reenacting, without amendments,
22 Article - Public Safety
23 Section 2-808 and 2-809
24 Annotated Code of Maryland
25 (2003 Volume)
26 (As enacted by Section 1 of this Act)

27 BY repealing and reenacting, with amendments,
28 Article - State Personnel and Pensions
29 Section 24-201 and 26-201(a)
30 Annotated Code of Maryland
31 (1997 Replacement Volume and 2003 Supplement)

32 BY repealing and reenacting, without amendments,
33 Article - Agriculture
34 Section 10-1302(a)
35 Annotated Code of Maryland
36 (1999 Replacement Volume and 2003 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Agriculture
3 Section 10-1302(b)(4)
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2003 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article - Criminal Procedure
8 Section 2-101(c)(12) and 5-212(a)
9 Annotated Code of Maryland
10 (2001 Volume and 2003 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 20-702(b)
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2003 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Natural Resources
18 Section 1-104(j), 1-106, 4-742(b), 8-709, and 8-726.1
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2003 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That Section(s) 1-201 through 1-210, respectively, and the subtitle
23 "Subtitle 2. Natural Resources Police Force" of Article - Natural Resources of the
24 Annotated Code of Maryland be transferred to be Section(s) 2-802 through 2-811,
25 respectively, and the subtitle "Subtitle 8. Natural Resources Police Force" of Article -
26 Public Safety of the Annotated Code of Maryland.

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
28 read as follows:

29 **Article - Public Safety**

30 2-101.

31 (i) "Police employee" means an employee of the Department to whom the
32 Secretary assigns the powers contained in § 2-412 of this title.

33 2-204.

34 (b) In addition to any powers set forth elsewhere, the Secretary may:

35 (1) establish the organization of the Department;

- 1 (2) create units in the Department;
- 2 (3) define the functions, duties, and responsibilities of each unit in the
3 Department;
- 4 (4) redefine periodically the functions, duties, and responsibilities of any
5 unit in the Department, whether created by the Secretary or by law;
- 6 (5) assign and reassign employees of the Department to the duties, units,
7 and regional facilities of the Department as the Secretary considers necessary to
8 serve the needs of the Department and the public;
- 9 (6) establish standards, qualifications, and prerequisites of character,
10 training, education, and experience for employees of the Department;
- 11 (7) establish ranks and grades and, in accordance with Title 6, Subtitle 4
12 of the State Personnel and Pensions Article, civilian classifications as the Secretary
13 considers necessary and appropriate;
- 14 (8) designate the authority, responsibility, and duties of ranks, grades,
15 and civilian classifications and the order of succession to positions of command within
16 the Department;
- 17 (9) appoint, promote, reduce in rank or civilian classification, reassign,
18 reclassify, retire, and discharge any employee of the Department in the manner
19 required by law;
- 20 (10) regulate attendance, conduct, training, discipline, and procedure for
21 employees of the Department;
- 22 (11) provide systems for periodic evaluation and improvement of the
23 performance and physical condition of employees of the Department, including
24 in-service training programs and courses;
- 25 (12) establish headquarters, barracks, posts, commands, and other
26 regional facilities in localities as necessary for the efficient performance of the duties
27 of the Department;
- 28 (13) close headquarters, barracks, posts, commands, and other regional
29 facilities when their need ceases to exist;
- 30 (14) purchase or otherwise acquire the land, facilities, equipment, or
31 services as are considered essential for the needs of the Department or its employees
32 in carrying out their duties, in the manner required by law;
- 33 (15) sell or dispose of land, facilities, or equipment as they become
34 unnecessary or unfit for further use, in the manner required by law;
- 35 (16) establish and modify systems for receiving, processing, and
36 maintaining;

1 (i) reports and records of occurrences or alleged occurrences of
2 [crime and]:

3 1. CRIME; AND

4 2. HUNTING, BOATING, AND motor vehicle accidents in the
5 State; and

6 (ii) reports and records of the administration, management, and
7 operations of the Department; and

8 (17) establish procedures for safekeeping, copying, and destroying records
9 of the Department.

10 2-301.

11 (a) (1) The Department has the general duty to safeguard the lives and
12 safety of all persons in the State, to protect property, and to assist in securing to all
13 persons the equal protection of the laws.

14 (2) Specifically, this duty includes the responsibility to:

15 (i) preserve the public peace;

16 (ii) detect and prevent the commission of crime;

17 (iii) enforce the laws and ordinances of the State, counties, and
18 municipal corporations;

19 (iv) apprehend and arrest criminals and those who violate or are
20 lawfully accused of violating the laws and ordinances of the State, counties, and
21 municipal corporations;

22 (v) preserve order at public places;

23 (vi) maintain the safe and orderly flow of traffic on public streets
24 and highways;

25 (vii) cooperate with and assist law enforcement agencies in carrying
26 out their respective duties; [and]

27 (viii) discharge the duties and responsibilities of the Department
28 with the dignity and in a manner that will inspire public confidence and respect; AND

29 (IX) ENFORCE THE REGULATIONS OF THE DEPARTMENT OF
30 NATURAL RESOURCES.

1 2-401.

2 (a) If there are inconsistencies between this article and the State Personnel
3 and Pensions Article, this article controls as to any matter that relates to the
4 Department.

5 (b) Except as expressly provided in this article, the State Personnel and
6 Pensions Article does not apply to or affect the compensation, rank, grade, or status of
7 police employees.

8 (c) Except as expressly provided in this article, the compensation, civilian
9 classification, and status of civilian employees shall be determined in accordance with
10 the State Personnel and Pensions Article.

11 2-402.

12 (a) (1) In accordance with the State budget, the Secretary shall appoint the
13 employees that the Secretary considers necessary for the efficient administration of
14 the Department.

15 (2) The Secretary shall make each appointment from a list of eligible
16 candidates in accordance with the State Personnel and Pensions Article.

17 (b) Each appointee to the Department shall:

18 (1) be a resident of the State on the date of appointment; and

19 (2) have the character, education, and other qualifications established by
20 the Secretary under this title.

21 2-403.

22 (a) Each police employee, including an individual who is appointed to the
23 Department for training before regular assignment as a police employee, shall remain
24 in probationary status for a period of 2 years after the date of appointment to the
25 Department.

26 (b) Each civilian employee shall remain in probationary status for the period
27 required under Title 7, Subtitle 4 of the State Personnel and Pensions Article.

28 2-412.

29 (c) Police employees may not act within the limits of a municipal corporation
30 that maintains a police force except:

31 (1) when in pursuit of a criminal or suspect;

32 (2) when in search of a criminal or suspect wanted for a crime committed
33 outside of the limits of the municipal corporation or when interviewing or seeking to
34 interview a witness or supposed witness to the crime;

1 (3) when a crime is committed in the presence of the police employee,
 2 and the arrested party must be immediately transferred to the custody of the local
 3 law enforcement agency;

4 (4) when requested to act by the chief executive officer or chief police
 5 officer of the municipal corporation;

6 (5) when ordered by the Governor to act within the municipal
 7 corporation;

8 (6) when enforcing the motor vehicle laws of the State, except in
 9 Baltimore City;

10 (7) in Baltimore City, only when enforcing Title 23 of the Transportation
 11 Article;

12 (8) in any building or place when ordered by either the President of the
 13 Senate or the Speaker of the House of Delegates to guard the safety of legislators or
 14 the integrity of the legislative process;

15 (9) to protect the safety of an elected State official;

16 (10) in the municipal corporations of Somerset County;

17 (11) when enforcing § 11-207 of the Criminal Law Article;

18 (12) (i) 1. when participating in a joint investigation with officials
 19 from another State, federal, or local law enforcement agency at least one of which has
 20 local jurisdiction;

21 2. when rendering assistance to a police officer;

22 3. when acting at the request of a local police officer; or

23 4. when an emergency exists; and

24 (ii) when acting in accordance with regulations adopted by the
 25 Secretary to implement this item; [or]

26 (13) when conducting investigations relating to or otherwise enforcing §
 27 7-302 of the Criminal Law Article; OR

28 (14) WHEN AUTHORIZED BY § 2-805 OF THIS TITLE.

29 Subtitle 8. OFFICE OF Natural Resources Police [Force].

30 2-801.

31 IN THIS SUBTITLE, "NATURAL RESOURCES POLICE OFFICER" MEANS AN
 32 INDIVIDUAL EMPLOYED BY THE OFFICE OF NATURAL RESOURCES POLICE TO
 33 ENFORCE THE NATURAL RESOURCES LAWS OF THIS STATE.

1 2-802.

2 There is [a Natural Resources Police Force] AN OFFICE OF NATURAL
3 RESOURCES POLICE in the Department.

4 2-803.

5 The Secretary is responsible for the enforcement of all natural resource laws of
6 the State, including any rules and regulations adopted pursuant to [this] THE
7 NATURAL RESOURCES article.

8 2-804.

9 (a) [The Secretary shall, within the limits of any appropriation made for this
10 purpose, appoint Natural Resources police officers as the Secretary deems necessary
11 for the efficient administration of the Natural Resources Police Force. All
12 appointments shall be made from a list of eligible persons prepared in accordance
13 with the provisions of the State Personnel and Pensions Article.]

14 [(b)] The Secretary shall issue to each person appointed as Natural Resources
15 police officer a commission and badge stating "Natural Resources Police Officer".

16 [(c)] (B) Except when on detective duty, every Natural Resources police officer
17 shall wear in plain view a "Natural Resources Police Officer" badge when acting in his
18 official capacity.

19 [(d)] (C) The badge is property of the State, and upon the termination of a
20 commission of any Natural Resources police officer, it shall be returned with the
21 commission to the Secretary.

22 [(e)] (D) [All Natural Resources police officers, including persons appointed
23 for training prior to regular assignment as a Natural Resources police officer, shall
24 remain in a probationary status for a period of 2 years from the date of initial
25 appointment to the Natural Resources Police Force.] The Secretary may discharge an
26 employee in probationary status for any cause which is deemed sufficient in the sole
27 discretion of the Secretary.

28 [(f)] In cases of inconsistency between this subtitle and the provisions of the
29 State Personnel and Pensions Article, the provisions of this subtitle shall control as to
30 all matters relating to the Natural Resources Police Force.]

31 2-805.

32 (a) (1) In addition to any other powers conferred by this [title, the Secretary
33 and every] SUBTITLE, A Natural Resources police officer:

34 (I) shall have all the powers conferred upon police officers of the
35 State; AND

1 (II) [These powers may be exercised] MAY EXERCISE THESE
2 POWERS anywhere within the State.

3 (2) The OFFICE OF Natural Resources Police [Force specifically is
4 charged with enforcing] SHALL ENFORCE the natural resource laws of the State.

5 (b) Every Natural Resources police officer [appointed under § 1-203 of this
6 subtitle] shall perform duties the Secretary designates.

7 (c) Any [law enforcement employee of the Department of Natural Resources]
8 NATURAL RESOURCES POLICE OFFICER who works overtime for any reason, whether
9 or not the employee receives monetary payment for that overtime work, shall be
10 considered to be employed by this State during those hours for purposes of all other
11 employee entitlements.

12 2-806.

13 (a) If a Natural Resources police officer apprehends a person for violating any
14 law punishable as a misdemeanor the officer may prepare and sign a written citation
15 containing:

- 16 (1) a notice to appear in [court,] COURT;
- 17 (2) the name and address of the person [charged,] CHARGED;
- 18 (3) appropriate license numbers, if [any,] ANY;
- 19 (4) the offense [charged,] CHARGED;
- 20 (5) the time and place the person shall appear in court[, and]; AND
- 21 (6) other pertinent information required by the Secretary.

22 (b) (1) The person charged may give [his] A written promise to appear in
23 court by signing the citation prepared by the officer.

24 (2) [In this event,] IF A PERSON GIVES A WRITTEN PROMISE, AS
25 PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, the officer is not required to take
26 the person into physical custody for the violation unless the person charged does not
27 furnish satisfactory evidence of identity or the officer has reasonable grounds to
28 believe the person charged will disregard a written promise to appear.

29 (c) A person may not violate [his] A written promise to appear in court unless
30 sufficient collateral for the offense is posted, the fine is paid in advance of trial, or the
31 person is represented by counsel in court.

32 (d) (1) If a person fails to comply with the notice to appear in a citation
33 issued under this section, the court may:

34 (i) [Except] EXCEPT as provided in paragraph (4) of this
35 subsection, issue a warrant for the person's arrest; or

1 (ii) [After] AFTER 5 days, notify the court's clerk of the person's
2 noncompliance.

3 (2) On receipt of notice of noncompliance from the court, the clerk shall
4 notify the person by mail at the address indicated on the citation that a warrant for
5 the person's arrest may be issued by the court unless, by the end of the 15th day after
6 the date on which the notice is mailed, the person:

7 (i) [Pays] PAYS the fine on the original charge as provided for in
8 the original citations and a fine of \$100 for failing to appear; or

9 (ii) [Posts] POSTS bond or a penalty deposit and requests a new
10 trial date.

11 (3) If a person fails to pay the fines or post the bond or penalty deposit
12 under paragraph (2) of this subsection, the court may issue a warrant.

13 (4) When the original offense is not punishable by incarceration, a
14 warrant may not be issued for the person under this subsection until 20 days after the
15 original trial date.

16 2-807.

17 A person may not willfully fail or refuse to comply with any lawful or reasonable
18 order or direction of any Natural Resources police officer or any law enforcement
19 officer in connection with the enforcement of any provisions of law required to be
20 enforced by the Secretary OF NATURAL RESOURCES, [or] the Department OF
21 NATURAL RESOURCES, OR THE OFFICE OF NATURAL RESOURCES POLICE.

22 2-808.

23 A person may not falsely represent himself as being a Natural Resources police
24 officer, with fraudulent design upon person or property, or to have, use, wear, or
25 display, without authority of the Secretary, any uniform, shield, button, ornament, or
26 shoulder patch of the Department, or to have any simulation or imitations of these
27 articles for the purpose of deception.

28 2-809.

29 (a) Every sheriff and law enforcement officer has the powers of a Natural
30 Resources police officer.

31 (b) Whenever the Secretary or any Natural Resources police officer requires
32 the advice and assistance of the State's Attorneys, sheriffs of the several counties of
33 the State or Baltimore City, or any law enforcement officer, these officers shall render
34 the required assistance as in other State cases.

35 (c) The provisions of this section do not apply to the Sheriff of Baltimore
36 County.

1 2-810.

2 (a) Any person who violates any provision of this subtitle is guilty of a
3 misdemeanor[. Upon conviction, the person] AND ON CONVICTION is subject to a fine
4 not exceeding \$500, or imprisonment not exceeding [three] 3 months, or both, with
5 costs imposed in the discretion of the court.

6 (b) Any violation of any rule or regulation, or restriction [promulgated
7 pursuant to the provision of] ADOPTED UNDER this subtitle, is a misdemeanor and is
8 punishable as provided in subsection (a) OF THIS SECTION.

9 2-811.

10 (a) (1) When, in the opinion of the legally constituted authorities of
11 Maryland, [there has occurred on the waters of Maryland a violation of this article]
12 A VIOLATION OF THE NATURAL RESOURCES ARTICLE HAS OCCURRED ON THE
13 WATERS OF MARYLAND, or when, in the opinion of the legally constituted authorities
14 of Virginia, [there has occurred on the waters of Virginia a violation of the laws of
15 Virginia] A VIOLATION OF THE LAWS OF VIRGINIA, enforceable under § 28.2-900,
16 Code of Virginia, HAS OCCURRED ON THE WATERS OF VIRGINIA, the legally
17 constituted authorities of the state in which the offense was committed may pursue
18 the offender up to and across the Maryland-Virginia Boundary into the state in which
19 the offender flees.

20 (2) If a capture is made in continuous pursuit under the authority of
21 paragraph (1) of this subsection, the offender, vessel, and property shall be dealt with
22 as authorized by the laws of the state in which the offense was committed.

23 (b) This section shall be in effect for so long as the Commonwealth of Virginia
24 has in force similar legislation authorizing legally constituted authorities of Maryland
25 to pursue and make arrests in Virginia for violations of the Laws of Maryland.

26 **Article - State Personnel and Pensions**

27 24-201.

28 (A) [This] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THIS
29 subtitle applies only to:

30 (1) a police employee as defined in § 2-101 of the Public Safety Article;
31 and

32 (2) a Maryland State Police cadet.

33 (B) THIS SUBTITLE DOES NOT APPLY TO AN EMPLOYEE OF THE OFFICE OF
34 NATURAL RESOURCES POLICE.

1 26-201.

2 (a) Except as provided in subsection (b) of this section, this subtitle applies
3 only to:

4 (1) an employee of the Department of Natural Resources commissioned
5 by the Secretary of Natural Resources as[:

6 (i) a Natural Resources police officer; or

7 (ii)] a law enforcement officer, other than a Natural Resources police
8 officer;

9 (2) a law enforcement officer employed by the Field Enforcement
10 Division;

11 (3) a member of the Maryland Transportation Authority Police Force
12 who has the powers granted to a police officer under § 4-208 of the Transportation
13 Article;

14 (4) a deputy sheriff employed by the Baltimore City Sheriff's
15 Department;

16 (5) a member of the University of Maryland Police Force who has the
17 powers granted to a police officer under § 13-601 of the Education Article;

18 (6) a law enforcement officer employed by a participating governmental
19 unit that on or after July 1, 1999 has elected to participate in the Law Enforcement
20 Officers' Pension System;

21 (7) the State Fire Marshal or a Deputy State Fire Marshal;

22 (8) a member of the Morgan State University Police Force who has the
23 powers granted to a police officer under § 14-106 of the Education Article;

24 (9) a member of the BWI Airport Fire & Rescue Department;

25 (10) a member of the Department of General Services Police Force who
26 has the powers granted to a police officer under § 4-605 of the State Finance and
27 Procurement Article;

28 (11) an employee of the Department of Health and Mental Hygiene
29 commissioned by the Secretary of Health and Mental Hygiene as a Health and Mental
30 Hygiene police officer;

31 (12) an employee of the Motor Vehicle Administration commissioned by
32 the Secretary of the Department of Transportation as a Motor Vehicle Administration
33 police officer;

1 (13) an employee of the Department of Labor, Licensing, and Regulation
2 commissioned by the Secretary of Labor, Licensing, and Regulation as a Labor,
3 Licensing, and Regulation police officer;

4 (14) a firefighter for the Martin State Airport employed by the Military
5 Department; [or]

6 (15) a police officer employed by the Division of Rehabilitation Services in
7 the Department of Education, certified in accordance with the Maryland Police and
8 Correctional Training Commissions; OR

9 (16) AN EMPLOYEE OF THE DEPARTMENT OF STATE POLICE
10 COMMISSIONED BY THE SECRETARY OF STATE POLICE AS A NATURAL RESOURCES
11 POLICE OFFICER.

12 **Article - Agriculture**

13 10-1302.

14 (a) There is an Aquaculture Advisory Committee.

15 (b) The Advisory Committee shall consist of 21 members:

16 (4) 1 representative of the [Department of Natural Resources Police
17 designated by the Secretary of Natural Resources] OFFICE OF NATURAL RESOURCES
18 POLICE DESIGNATED BY THE SECRETARY OF STATE POLICE;

19 **Article - Criminal Procedure**

20 2-101.

21 (c) "Police officer" means a person who in an official capacity is authorized by
22 law to make arrests and is:

23 (12) a member of the [Natural Resources Police Force of the Department
24 of Natural Resources] OFFICE OF NATURAL RESOURCES POLICE IN THE
25 DEPARTMENT OF STATE POLICE;

26 5-212.

27 (a) This section does not apply to a citation:

28 (1) for a violation of a parking ordinance or regulation adopted under
29 Title 26, Subtitle 3 of the Transportation Article;

30 (2) adopted by the Chief Judge of the District Court under § 1-605(d)(8)
31 of the Courts Article, for use in traffic offenses; or

32 (3) issued by a Natural Resources police officer under [§ 1-205 of the
33 Natural Resources Article] § 2-806 OF THE PUBLIC SAFETY ARTICLE.

1

Article - Health - General

2 20-702.

3 (b) (1) A physician, pharmacist, dentist, or nurse who treats an individual
4 for an injury that was caused or shows evidence of having been caused by an accident
5 involving a moving vessel, or the individual in charge of a hospital that treats the
6 injured individual, shall notify the county sheriff, the county [police,] OR the
7 Department of State Police[, or the Natural Resources Police] of the injury as soon as
8 practicable.

9 (2) A police department notified of an accident involving a moving vessel
10 promptly shall advise the Department of Natural Resources.

11

Article - Natural Resources

12 1-104.

13 (j) The Secretary may exercise or perform any power, duty, responsibility, or
14 function which any of the following units, or their successors, may exercise or
15 perform: the Maryland Geological Survey, the Wildlife Administration, [the Natural
16 Resources Police Force,] the Forest and Park Service, the Water Resource
17 Administration, the Energy Administration, and the Tidewater Administration.

18 1-106.

19 (a) In this article the following words have the meanings indicated.

20 (b) "Informational meeting" means a meeting, open to the public, at which the
21 applicant or the Department of Natural Resources presents information concerning a
22 permit or certificate application. An informational meeting is not a contested case
23 hearing nor an agency hearing under § 10-202(d) of the State Government Article.

24 (c) "NATURAL RESOURCES POLICE OFFICER" MEANS AN INDIVIDUAL
25 EMPLOYED BY THE OFFICE OF NATURAL RESOURCES POLICE IN THE DEPARTMENT
26 OF STATE POLICE TO ENFORCE THE NATURAL RESOURCES LAWS OF THIS STATE.

27 (D) "Public hearing" means a meeting, open to the public, at which the
28 Department of Natural Resources receives oral and written comments concerning a
29 decision to issue or deny a permit or certificate. A public hearing is not a contested
30 case hearing nor an agency hearing under § 10-202(d) of the State Government
31 Article.

32 4-742.

33 (b) (1) The action of the Department of the Environment to restrict an area
34 of water becomes effective immediately upon giving formal notice of the action to the
35 Department. Notice also shall be given the appropriate governing body and the
36 committee of oystermen of any county affected by the restriction.

1 (2) The [Natural Resources Police Force] OFFICE OF NATURAL
2 RESOURCES POLICE shall patrol the area to warn watermen until public notice is
3 given in newspapers of general circulation in each of the counties whose watermen
4 work the restricted area normally. No arrests may be made until the next workday
5 following the day the notice appeared unless the watermen fail to heed a warning of
6 the officers.

7 (3) (i) If the Department of the Environment closes any area to the
8 catching of shellfish under this section, in addition to the notice required in
9 paragraph (1) of this subsection, the Department of Natural Resources shall mark the
10 area so that the area can be seen from the water.

11 (ii) The Department of Natural Resources shall adopt rules and
12 regulations to provide for the marking in a plain and visibly obvious fashion of any
13 area that is closed to the catching of shellfish because of pollution. Even in the
14 absence of such marking devices, a person may not catch shellfish in a restricted area
15 as designated by the Department of the Environment if notice has been given to the
16 appropriate governing body and the committee of watermen of any county affected by
17 the restriction.

18 8-709.

19 (a) The Department shall include in its annual budget request an itemized list
20 of requests for the use of any available money from the Waterway Improvement Fund
21 for the projects under § 8-707 of this subtitle. The Department's list shall include a
22 brief description of each project, an estimate of its cost, and the benefits to be derived
23 from it. The list shall designate which projects are financed solely by the Waterway
24 Improvement Fund, which are matching fund projects, and which are interest-free
25 loan projects.

26 (b) Notwithstanding the provisions of subsection (a) of this section, in any
27 fiscal year the Department may expend from the Waterway Improvement Fund
28 without legislative approval a total sum of not more than \$225,000. Of this amount, a
29 sum of not more than \$125,000 may be expended for small projects under § 8-707(3)
30 and (4) of this subtitle, subject to the limitation that a single project of this kind may
31 not exceed \$5,000 in cost to the Waterway Improvement Fund, and a sum of not more
32 than \$100,000 may be expended for boating safety and education.

33 (c) [Notwithstanding the provisions of subsection (a) of this section, the
34 Department may propose in its annual budget, beginning with the fiscal year 1994
35 budget, an appropriation of not more than \$1,000,000 from the Waterway
36 Improvement Fund to support marine operations in the Natural Resources Police.

37 (d)] Notwithstanding the provisions of subsection (a) of this section, for each of
38 fiscal years 2003 and 2004, as provided in the State budget, the Department may use
39 the moneys in the Waterway Improvement Fund for administrative expenses directly
40 relating to implementing the purposes of the Waterway Improvement Fund.

1 8-726.1.

2 (a) This section does not:

3 (1) Apply to the improvement of harbors; or

4 (2) Affect any act of the General Assembly relating to the construction of
5 a wharf or to the rights of a riparian owner.

6 (b) Ballast, ashes, filth, earth, oysters, or oyster shells may not be deposited
7 from a vessel to a site:

8 (1) In the Chesapeake Bay above Sandy Point;

9 (2) In Herring Bay; or

10 (3) Below the high water mark in a river, creek, or harbor in the State.

11 (c) A person in command or having charge of a vessel that violates this section
12 is guilty of a misdemeanor and on conviction is subject to a fine of not less than \$20
13 and not exceeding \$150.

14 (d) The [Natural Resources Police Force] OFFICE OF NATURAL RESOURCES
15 POLICE shall enforce this section.

16 SECTION 3. AND BE IT FURTHER ENACTED, That an employee transferred
17 under this Act shall be appointed without further examination or qualification. The
18 employee shall be placed in a classification that is comparable in duties and
19 responsibilities to the employee's former position. The employee may not suffer a
20 diminution of salary or wages, accrued leave, whether earned or granted, seniority
21 rights, or employment and retirement status.

22 SECTION 4. AND BE IT FURTHER ENACTED, That, except as otherwise
23 provided by law, all existing laws, regulations, proposed regulations, standards and
24 guidelines, policies, orders and other directives, forms, plans, memberships,
25 contracts, property, investigations, administrative and judicial responsibilities, rights
26 to sue and be sued, and all other duties and responsibilities associated with the
27 Natural Resources Police prior to July 1, 2004 shall continue in effect under the
28 Department of State Police, until completed, withdrawn, canceled, modified, or
29 otherwise changed by law.

30 SECTION 5. AND BE IT FURTHER ENACTED, That all contracts,
31 agreements, or other obligations entered into by the Natural Resources Police Force,
32 prior to July 1, 2004, are valid, legal, and binding obligations of the Department of
33 State Police, enforceable in accordance with their terms.

34 SECTION 6. AND BE IT FURTHER ENACTED, That all property, including
35 real or personal property, records, fixtures, appropriations, credits, assets, liabilities,
36 obligations, rights, and privileges held by the Department of Natural Resources to

1 carry out the exclusive functions of the Natural Resources Police shall be transferred
2 to the Department of State Police on the effective date of this Act.

3 SECTION 7. AND BE IT FURTHER ENACTED, That the publisher of the
4 Annotated Code of Maryland, in consultation with and subject to the approval of the
5 Department of Legislative Services, shall correct, with no further action required by
6 the General Assembly, cross-references and terminology rendered incorrect by this
7 Act or by any other Act of the General Assembly of 2004 that affects provisions
8 enacted by this Act. The publisher of the Annotated Code of Maryland shall
9 adequately describe any such correction in an editor's note following the section
10 affected.

11 SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2004.